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Letter dated 10 February 2012 from the Chargé d'Affaires a.i. of the Permanent Mission of Argentina to the United Nations addressed to the Secretary-General

Upon instructions from my Government, I have the honour to transmit herewith the report of the Argentine Government on the militarization of the South Atlantic by the United Kingdom (see annex), which was hand-delivered to you today by the Minister for Foreign Affairs and Worship of the Argentine Republic.

I should be grateful if you could arrange for the present note and its annex to be circulated as a document of the General Assembly under agenda item 45, concerning the question of the Malvinas Islands, and of the Security Council.

(*Signed*) Mateo **Estreme**
Minister
Chargé d'Affaires a.i.

12-23305 (E) 170212 210212

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Annex to the letter dated 10 February 2012 from the Chargé d'Affaires a.i. of the Permanent Mission of Argentina to the United Nations addressed to the Secretary-General

Report of the Argentine Government on the militarization of the South Atlantic by the United Kingdom of Great Britain and Northern Ireland, 10 February 2012

The Argentine Republic is once again compelled to alert the international community, through the principal organs of the United Nations, to the growing British militarization of the Malvinas Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas, which are part of Argentine national territory and, as they are illegally occupied by the United Kingdom, are the subject of a bilateral sovereignty dispute recognized by the United Nations.

The Argentine Government has repeatedly stressed that this growing British militarization is contrary to the search for a peaceful settlement to the sovereignty dispute and constitutes an affront to the entire region, creating unnecessary tension in the South Atlantic.

The Argentine Government's concern has recently increased owing to statements made and decisions adopted by the British Government that are clearly provocative in nature and that result in the creation of a situation in the South Atlantic that is desired by neither Argentina nor the region.

The statements made to Parliament by Prime Minister David Cameron on 18 January 2012 cannot be interpreted otherwise, as he referred to the Malvinas Islands military forces and said that he had convened the National Security Council to discuss this issue. This was accompanied by statements from the Minister of State for the Armed Forces at the Ministry of Defence, Nick Harvey, who also addressed Parliament on 16 January 2012, boasting that the Malvinas Islands military base has substantial military resources, including air, sea and ground forces, which can be reinforced, if necessary. On 15 January 2012, the British Foreign Secretary, William Hague, spoke along the same lines when he added a reference to the recent modernization of the military airport of the islands. On 1 February 2012, Julien Brazier, a member of the Defence Committee of the British House of Commons, described the recent British military deployment as a "very powerful and timely" message to Argentina.

Argentina has information that, in the context of the recent British military deployment in the Malvinas Islands, refers to the dispatch of a nuclear submarine with the capacity to transport nuclear weapons to the South Atlantic. Argentina, as well as other countries of the region acting at its request, has sought information from the United Kingdom regarding the transportation of nuclear weapons to the South Atlantic. The United Kingdom has refused to provide any information that would serve to confirm or deny that fact, which is a serious matter affecting countries with which it seeks to maintain normal diplomatic relations.

Such conduct, which has also occurred in the past, has served to increase the Argentine Government's concern at this military escalation.

In 2003, following press reports of the events, the British Government admitted that vessels carrying nuclear weapons had secretly entered the South Atlantic and that incidents had occurred in connection with the handling of those weapons. The Argentine Government complained of these incidents to the United Nations.

The introduction of nuclear weapons into the South Atlantic is contrary to the Treaty of Tlatelolco, to which Great Britain is a party. Under this treaty, the purpose of which is the military denuclearization of Latin America, all the South American countries have renounced weapons of mass destruction.

This makes the disputed archipelagos a key component of Britain's strategic scheme — global in both nature and reach — to concentrate its enormous military power and its status as the only nuclear Power in the region; it may be concluded that the groundless defence by the United Kingdom of the self-determination of 2,500 islanders is merely a pretext for establishing a powerful military base to serve its strategic interests in the South Atlantic, with implications for the Antarctic and the Pacific and Indian Oceans.

The tension created by the events referred to above has increased with the arrival in the Malvinas Islands of Prince William, who is second in the line of succession to the British throne, in his capacity as a senior officer of the British Army to perform air and sea exercises. Apart from the political implications of this decision, it is aggravated by the dispatch to the South Atlantic of a state-of-the-art missile destroyer of the same kind as the one recently sent by the United Kingdom to the Persian Gulf, a highly volatile area that cannot be compared to the South Atlantic.

What is happening today is a new phase in the growing British military presence in the disputed area. In 2004, the British Government upgraded the military base in the Malvinas Islands, enlarging its scope of operations to areas beyond the disputed area. Furthermore, in 2010 the Argentine Republic complained to the International Maritime Organization of British missile exercises being conducted in maritime areas near the Malvinas Islands which jeopardized the safety of navigation in the South-West Atlantic.

At the same time, the new British Strategic Defence and Security Review released in October 2010 indicates the true strategic goal of the military base established in the Malvinas Islands: to provide a support centre for British military deployment on a global scale. It goes without saying that this goal is alien to the interests of the region.

The British military escalation is of concern not only to Argentina but also to the countries of the region and beyond. The Ibero-American Summits held in December 2010 and October 2011, and the Union of South American Nations (UNASUR) meeting held in October 2011, joined Argentina in rejecting the British military deployment in the area.

This situation is occurring in the context of the United Kingdom's repeated refusal to resume the negotiations urged by the United Nations and of its illegal unilateral measures involving the exploration and exploitation of renewable and non-renewable natural resources in the disputed area. This openly violates the provisions of United Nations General Assembly resolution 31/49, which requires both parties to refrain from taking decisions that would imply introducing unilateral

modifications in the situation in the islands while the sovereignty dispute between the two countries remains unresolved.

The illegitimate oil exploration activities which the United Kingdom has conducted — and, since 2010, expanded — in waters adjacent to the Malvinas Islands are not only contrary to the above-mentioned resolution 31/49, but are being carried out in the difficult conditions of the South Atlantic in a previously pristine marine environment. These activities are also a source of particular concern for Argentina as they imply a serious environmental risk which could lead to an ecological disaster such as the one that recently occurred in the Gulf of Mexico.

Such illegal activities have been rejected by the Southern Common Market (MERCOSUR) and its associated States, UNASUR and the Community of Latin American and Caribbean States (CELAC). In order to foresee or prevent such activities, MERCOSUR and UNASUR have undertaken to inform the Argentine Republic of the movement of ships with cargo related to oil exploration and exploitation in areas occupied by the United Kingdom.

Illegal British fishing activity in the disputed area has also been aggravated by the United Kingdom's unilateral granting of property rights over fishing resources to third parties for a period of up to 25 years, thus creating faits accomplis which once again highlight the British refusal to settle the dispute through bilateral negotiations.

In view of the above, the United Kingdom's conduct in relation to the sovereignty dispute is incompatible with its obligations as a United Nations Member State regarding the peaceful settlement of international disputes pursuant to the provisions of the Charter. This is particularly serious in view of its status as a permanent member of the Security Council, the body responsible for safeguarding international peace and security.

Even more serious is the fact that, at a time when the world is discussing the need to control and reduce nuclear danger, a permanent member of the Security Council is sending a contradictory message.

The Argentine Republic reiterates its willingness to resume the long-postponed negotiations in order to reach a peaceful solution to the sovereignty dispute over the Malvinas Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas.

The question of the Malvinas Islands

Historical background

The Malvinas Islands were discovered in 1520 by members of the Magellan expedition. They were recorded on European maps under a variety of names, but always remained within the areas under the effective control of the Spanish authorities. Papal bulls and the Treaty of Tordesillas of 1494 are the first instruments reflecting Spanish titles in accordance with international law of the period. The whole southern region of the Americas, with its coasts, seas and islands, indisputably remained under Spanish sovereignty through the various treaties signed in the period, such as the "American" Treaty of 1670 between Spain and England. The Peace of Utrecht, signed in 1713, assured the integrity of Spain's possessions in

South America and confirmed its exclusive right to sail in the waters of the South Atlantic. As a signatory of the Utrecht agreements and of later treaties in the eighteenth century ratifying them, England accepted these clauses.

In 1749 Spain received news of a British plan to settle the Malvinas Islands and protested strongly to the Government of Great Britain, which then abandoned the plan. In 1764, it was France that showed an interest in the Malvinas Islands, establishing the settlement of Port Louis on Soledad Island. Spain objected strongly and succeeded in persuading France to recognize Spanish rights to the islands. The French Government ordered evacuation of the settlement and handed it over to the Spanish authorities. Soon after the French settlement, the United Kingdom once again expressed its intentions to take over the islands, this time through a clandestine expedition that arrived in the archipelago and established a fort at a place named "Port Egmont" on an island to the west of Gran Malvina. Despite the secrecy of the operation, Spain became aware of it and protested strongly. Not receiving an acceptable response, in 1770 it expelled the settlers. As a result of that act, both countries were on the verge of war, but in 1771 they reached an agreement that consisted of two declarations: a declaration by Spain that would return Port Egmont to the British, making express reservation concerning Spanish rights to sovereignty over the whole of the Malvinas Islands archipelago; and an acceptance of this declaration in which Great Britain remained silent as to the reservation concerning Spanish rights. As part of the arrangement, it was agreed that the English would withdraw from Port Egmont, which they did in 1774. From then on, the Spanish authorities based in Puerto Soledad continued to exercise their jurisdiction and control over the whole of the archipelago. In 1790, with the signing of the Treaty of San Lorenzo at El Escorial, Great Britain undertook not to establish any settlements on either the eastern or the western coasts of South America or on the adjacent islands already occupied by Spain such as the Malvinas Islands. Spain appointed a succession of 32 governors in the Malvinas Islands up to 1811.

After the May Revolution in 1810, the first Argentine Governments considered the Malvinas Islands to be an integral part of the territory inherited from Spain. In 1820, despite the internal struggles faced by the Argentine State in formation, Argentine naval officer David Jewett took possession of the Malvinas Islands on behalf of the United Provinces of the Río de la Plata at a public ceremony at Puerto Soledad, which was attended by sealers and whalers of different nationalities, including American and British. The news was published in the media in the United States and the United Kingdom (David Jewett, *The Times* of London, 3 August 1821). Despite the publicity for the ceremony carried out by the Argentine authority, Great Britain did not stake any claim to the Malvinas Islands either on that occasion or later in the process of recognition of Argentina which ended with the signing of the Treaty of Friendship, Trade and Navigation in 1825. Argentine Governments took various actions confirming their sovereignty over the islands, including the granting of territorial concessions and the adoption of legislation on fishing resources. As a result, Puerto Soledad grew and its inhabitants worked in stockbreeding, sealing and providing services to the boats that came into port. On 10 June 1829, the Argentine Government created the Political and Military Command of the Malvinas Islands and appointed Luis Vernet to lead it. After remaining silent for over 50 years since the brief episode of Port Egmont, during which time there had been successive uncontested Spanish and Argentine administrations in the Malvinas Islands, in November 1829 the United Kingdom,

against the backdrop of renewed strategic interest in the South Atlantic, objected to the decree of 10 June of that year. Soon afterwards, on 3 June 1833, a British Royal Navy corvette expelled the Argentine authorities by force for refusing to recognize British authority. The Argentine authorities immediately rejected and protested against this act, which was carried out in peacetime, without prior communication or declaration, by a Government supposedly friendly to the Argentine Republic. Indeed, on 16 January 1833, when the first news of the events in the Malvinas Islands reached Buenos Aires, the Argentine Government demanded explanations from the British Charge d'Affaires, who was unaware of his country's actions. A few days later, on 22 January the Minister for Foreign Affairs presented a formal protest to the British Government official, which was repeated and expanded on numerous occasions by the Argentine representative in London. Argentina's many statements to the British Government invariably met with a negative response.

The issue remained unsettled and was recognized as such by the British Foreign Secretary in an official communication in 1849. Meanwhile Argentina continued to raise the issue at various levels of government and it became a subject of debate in the Argentine Congress. In 1884, in view of the lack of response to its protests, Argentina proposed that the issue should be submitted to international arbitration, but that proposal was also rejected by the United Kingdom, without any reason being given.

Subsequent Argentine Governments have continued to make protests to the United Kingdom, without success, and on every suitable occasion they have made statements and expressed reservations in defence and preservation of Argentine sovereignty over the disputed archipelagos.

The question of the Malvinas Islands in the United Nations

Prior to the establishment of the United Nations, the "Question of the Malvinas Islands", understood as the sovereignty dispute between Argentina and the United Kingdom over the Malvinas Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas, was addressed at the San Francisco Conference, at which the Argentine delegation made a statement of reservation of rights according to which the Argentine Republic in no event accepted that the system could be applied to or over any territories belonging to it, whether they were subject to a claim or dispute, or were in the possession of other States.

On 14 December 1960, when the decolonization process driven by the Charter of the United Nations was already well under way, the United Nations General Assembly adopted resolution 1514 (XV) on the Declaration on the Granting of Independence to Colonial Countries and Peoples, which proclaimed "the necessity of bringing to a speedy and unconditional end colonialism in all its forms and manifestations" and set out two fundamental principles that should guide the process of decolonization: self-determination and territorial integrity. This resolution establishes in paragraph 6 that "any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations". This resolution leaves it indisputably clear that the principle of self-determination cannot be applied where the territorial integrity of States is at stake.

Pursuant to resolution 1514 (XV), on 16 December 1965 the General Assembly adopted resolution 2065 (XX) in which it recognized the existence of a sovereignty dispute between Argentina and the United Kingdom and invited the two countries to negotiate to find a peaceful solution to the problem.

This resolution contains the essential elements that define this question:

- The case of the Malvinas Islands involves one of the forms of colonialism which must be brought to an end.
- The existence of a dispute between the Argentine and British Governments is noted.
- The Argentine and British Governments are invited to proceed with negotiations with a view to finding a peaceful solution to the problem and to report on the results of the negotiations to the Special Committee and to the General Assembly.
- In these negotiations, the provisions and objectives of the Charter (including Article 33 relating to the obligation of the parties to any dispute to seek a solution first of all by negotiation) and of resolution 1514 (XV) (principle of territorial integrity), as well as the interests of the population of the Islands (thus leaving aside the principle of self-determination).

Soon after the adoption of the above resolution, a process of bilateral negotiation concerning the sovereignty of the Malvinas Islands, South Georgia Islands, South Sandwich Islands and the surrounding maritime areas was initiated, in which both parties proposed a number of different solutions but did not succeed in implementing any of them. In 1973, the United Nations General Assembly declared the need to accelerate the negotiations and through its resolution 3160 (XXVIII) urged the two Governments to proceed with them without delay.

In subsequent years, while negotiations concerning the sovereignty dispute continued, special talks were held on practical aspects affecting the well-being of the population of the islands, as Argentina expressed its willingness to address the concerns of the population.

In 1971, as a result of these special talks, the two Governments reached an agreement on a sovereignty formula in order to cooperate on matters relating to regular air and maritime services and postal, telegraphic and telephone communications; while Argentina made a commitment to cooperation on health, education, agricultural and technical matters.

At the same time, a number of solutions were considered, both officially and unofficially, in the negotiations on the main issue. However, despite these negotiations and the Argentine actions to address the concerns of the islands' inhabitants, which certainly alleviated the burden of responsibility of the illegal occupying and administering Power, the United Kingdom at the same time carried out activities under its alleged jurisdiction in connection with exploration of natural resources in the disputed area, which were the subject of protests by the Argentine Government.

Aware of this situation, the United Nations General Assembly in December 1976 adopted resolution 31/49, with very significant content, by 102 votes in favour, 1 against (United Kingdom) and 32 abstentions. This resolution urges the two

parties to the dispute to refrain from taking decisions that would imply introducing unilateral modifications in the situation while the islands are going through the process recommended in the above-mentioned resolutions 2065 (XX) and 3160 (XXVIII). To this day, the United Kingdom continues to ignore this resolution, as it persists in conducting unilateral activities in the disputed area, mainly in connection with the exploration and exploitation of renewable and non-renewable natural resources, and some of a military nature.

The 1982 conflict did not alter the nature of the sovereignty dispute between Argentina and the United Kingdom over the Malvinas Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas, which continues to await negotiation and solution. The General Assembly recognized this fact in November 1982, when it adopted resolution 37/9 and made the same statement in its resolutions 38/12, 39/6, 40/21, 41/40, 42/19 and 43/25.

Since 1989, the question of the Malvinas Islands has been discussed every year by the Special Committee on decolonization. Every year, this Committee adopts a resolution along the same lines as the relevant resolution of the General Assembly.

Similarly, within the United Nations, the mandate of the mission of good offices of the Secretary-General has been continued and the question of the Malvinas Islands has, since 2004, been on the permanent agenda of the General Assembly, as an item that can be discussed subject to prior notification by a Member State.

Consular and diplomatic relations between the two countries were restored in October 1989 and February 1990, respectively, after they had reached an understanding on the conditions in which the two countries would consider the sovereignty dispute over the Malvinas Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas. For that purpose, agreement was reached, on the basis of the Joint Declarations of Madrid of 1989 and 1990, on a formula for preserving or safeguarding sovereignty over the Malvinas Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas, which also constitutes recognition by both countries of the existence and content of the sovereignty dispute. However, the question of sovereignty, the central issue of the dispute, has not yet been addressed owing to the refusal of the United Kingdom to resume the negotiations on this issue. The United Kingdom insists on its position, rejecting the many calls from Argentina, the United Nations, the Group of 77 and China, the entire international community, regional organizations (the Organization of American States, the Southern Common Market (MERCOSUR), the Union of South American Nations (UNASUR) and the Community of Latin American and Caribbean States (CELAC)) and the Ibero-American Summits, among other multilateral forums. The United Kingdom combines its refusal to resume negotiations with its reference to a supposed right of self-determination for the population of the islands, which is not applicable in this case and which has been repeatedly rejected by the United Nations. This is because the Organization understood that a population transplanted by the colonial Power, such as the population of the Malvinas Islands, does not constitute a people with the right to self-determination as it belongs to the people of the colonial Power.